

WETLANDS COUNCIL

MINUTES

September 13, 2005

The Wetlands Council met on Tuesday, September 13, 2005 at the Department of Environmental Services, 29 Hazen Dr., Concord, NH

Attendees: Brian K. Fowler, Chairman, Lawrence E. Morse, John S. Cobb, William M. Dannehy, Glenn Normandeau, Ben Frost, Seth S. Prescott, Russ St. Pierre and Thomas Sloan

Absentees: Camilla Lockwood, Thomas G. Chrisenton, Sharon Champagne, and William Ingham, Jr.

The meeting was called to order by Chairman Brian K. Fowler at 9:00 a.m.

1. **Approval of Minutes of July 26, 2005 Meeting**

A motion was made by Councilor Prescott and seconded by Councilor Morse to accept the minutes of July 26, 2005 as presented. It was unanimously voted. Councilor Sloan abstained.

2. **Election of Chair and Vice Chair**

Councilor Sloan nominated Brian K. Fowler as Chair and Lawrence E. Morse as Vice Chair.

Councilor Sloan made a motion to elect Brian K. Fowler as Chairman and Lawrence E. Morse as Vice Chairman. Councilor Normandeau seconded the motion and it was unanimously voted.

Both Councilors Fowler and Morse were present and accepted the positions to which they were elected.

Ben Frost arrived after the foregoing votes were taken.

3. **Status of Appeals**

Michael Sclafani, Appeals Clerk, distributed an Appeals Status Report and reviewed the report with council members.

- **Docket No. 02-16 WtC - Donald S. Thompson: WB #2002-01019**
On August 30, 2005, a second pre-hearing conference was held. As a result, the stay is continued while appellant makes a determination whether to pursue legal action in superior court.
- **Docket No. 03-11 WtC - Town of Barrington/Town of Nottingham**
On July 29, 2005, the appeal was withdrawn by appellant and is now closed.

- Docket No. 04-21 WtC - Lakeshore Realty Trust: WB #2001-01294
On August 3, 2005, the appellant filed an Assented-to Motion to Continue stay for an additional 120 days. A written Decision & Order granting the motion was issued on August 9, 2005.
- Docket No. 04-23 WtC - John and Patricia Booth: WB #2004-00668
A stay remains in effect pending a superior court declaratory judgment action.
- Docket No. 05-04 WtC - Philip and Georgette Smith: WB #2000-00914
On July 26, 2005, an appeal hearing was held and a decision made to deny the appeal. A written Decision & Order has not been issued.
- Docket No. 05-05 WtC - Steven Seufert: WB #2003-00296
On July 26, 2005, an appeal hearing was held and a decision made to grant the appeal. A written Decision & Order has not been issued.
- Docket No. 05-08 WtC - Renate Ranniger: WB #2004-01185
This appeal was accepted by the council on July 26, 2005. DES filed the Wetlands Bureau certified record on August 16, 2005 and on August 17, 2005 James Coleman filed a Request for Intervenor Status. A pre-hearing conference was held on August 30, 2005. As a result of the pre-hearing conference, the parties are in settlement discussions and the appeal is stayed.
- Docket No. 05-12 WtC - Town of Barrington: WB #2004-02817
This is an appeal of a July 1, 2005 decision by DES to deny the Town of Barrington's Motion for Reconsideration of its approval to Garrison Place Real Estate Investment Trust to retain monitoring devices installed in and adjacent to Barrington Prime Wetlands #40. The appeal was timely filed on July 25, 2005.

Councilor Sloan made a motion to accept this appeal. Councilor Normandeau seconded the motion and it was unanimously voted. [Councilor Morse recused himself from the vote.]

- Docket No. 05-13 WtC - Frederick Gallant: WB #2004-02467
This is an appeal of a July 1, 2005 decision by the Wetlands Bureau to deny a permit to replace an existing seasonal dock with a permanent dock. The appeal was timely filed on July 25, 2005.

Councilor Normandeau made a motion to accept this appeal. Councilor Cobb seconded the motion and it was unanimously voted.

- Docket No. 05-14 WtC - Ralph and Virginia Sanborn: WB #2004-01764
This is an appeal of a July 7, 2005 decision by DES to deny appellants' Motion for Reconsideration of the Bureau's decision to grant a permit to Glen T. Saba for construction of docking structures on Lake Winnepesaukee. The appeal was timely filed on August 5, 2005.

Councilor Cobb made a motion to accept the appeal. Councilor Sloan seconded the motion and it was unanimously voted.

4. Wetlands Bureau Update

In response to Councilor Sloan's concerns, Collis Adams, Wetlands Bureau Administrator, advised that the bureau is in the process of revising its complaint form to alleviate areas of confusion.

Mr. Adams added that the current wetlands fee structure is scheduled to sunset in 2006. It is important that the fee structure remain at the current level for the bureau to be fully staffed in order to deliver services in a timely manner. The bureau will support legislation to maintain the current fee structure.

5. Old Business

There is no old business to come before the council.

6. Other Business

Councilor Fowler advised that a hearing will go forward at 10:00 a.m. on Wetlands Council Rules Env-WtC 100 and Env-WtC 200.

7. Next Meeting

The next meeting will be at the discretion of the Chairman.

9:30 Wetlands Council Meeting recessed

10:05 Wetlands Council Meeting and Public Hearing convened

Chairman Brian Fowler presided over the public hearing to receive comment on Wetlands Council Rules Env-WtC 100 DEFINITIONS, ORGANIZATION AND PUBLIC INFORMATION and Env-WtC 200 PRACTICE AND PROCEDURE. Rulemaking notices for Env-WtC 100 and Env-WtC 200 were published in the New Hampshire Rulemaking Register on July 29, 2005 as Notice #2005-135 and Notice #2005-136 respectively. This hearing is being held on the date, time and location indicated in the notices. Oral comments or written comments on the rules may be submitted for the council's consideration at this hearing. Written comments on the rules also can be submitted by 4:00 p.m. this date to Gretchen Hamel, Administrator of the DES legal unit, or to the council clerk if Gretchen Hamel is not available. The council will consider all comments received. The council will file its final proposed rules for reconsideration by the Joint Legislative Committee on Administrative Rules, which is anticipated to be at JLCAR's October 20, 2005 meeting.

Comments were received from meeting participants, Marjorie Swope, New Hampshire Association of Conservation Commissions, and Paul Goodwin, New Hampshire Marine Trades.

A motion was made by Councilor Morse to accept the rules with editorial comments offered by Marjorie Swope and Paul Goodwin, contingent upon

not receiving additional written comments by 4:00 p.m. today. Councilor Frost seconded the motion and it was unanimously voted.

Attorney Gretchen Hamel, DES Legal Unit Administrator, arrived at the hearing.

Councilor Morse made a motion to table the previous motion to accept the rules with editorial comment to allow further input by Attorney Hamel. Councilor Frost seconded the motion and it was unanimously voted.

Gretchen Hamel presented and discussed additional comments received on the rules under consideration by the council.

A motion was made by Councilor Frost to approve the rules as amended pursuant to comments received at public hearing today, contingent upon receipt of any further comments received by 4:00 p.m. today and/or receipt of comments from OLS. If additional comments are received, the comments will be distributed to councilors and a vote taken electronically, subject to ratification at the next council meeting. Councilor Normandeau seconded the motion and it was unanimously voted.

8. **Adjournment**

The meeting adjourned at approximately 10:50 a.m.